

4/13/2020 1:58 pm

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOVANNI G. WHYTE,

For Online Publication Only

Plaintiff,

-against-

ORDER
20-CV-00240 (JMA) (AYS)

SUFFOLK COUNTY,

Defendant.

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JOAN M. AZRACK, District Judge:

On January 14, 2020, *pro se* plaintiff Jovanni G. Whyte (“Plaintiff”) filed a complaint against Suffolk County (“Defendant”) together with an incomplete application to proceed *in forma pauperis*. (ECF Nos. 1, 2.) Accordingly, by Notice of Deficiency dated January 15, 2020, Plaintiff was instructed to complete and return the application to proceed *in forma pauperis* enclosed with the Notice within fourteen (14) in order for his case to proceed. (ECF No. 5.) On January 29, 2020, Plaintiff filed another application to proceed *in forma pauperis*. (ECF No. 7.) By Order dated February 27, 2020, the applications to proceed *in forma pauperis* were denied without prejudice and with leave to renew upon completion of the AO 239 *in forma pauperis* application form (the “Long Form”) within fourteen (14) days from the date of the Order. (ECF No. 8.) Plaintiff was also advised that, alternatively, he could remit the \$400.00 filing fee. (*Id.*) The Order further cautioned that a failure to timely comply would lead to the dismissal of the complaint without prejudice. (*Id.*)

To date, Plaintiff has not filed the Long Form, nor has he paid the filing fee. Indeed, Plaintiff has not communicated with the Court about this case since his January 29, 2020 filing. Although it appears that Plaintiff is no longer interested in pursuing this case, in light of the national emergency caused by the COVID-19 virus, the Court *sua sponte* grants Plaintiff a final

extension of time within which to either file the Long Form or remit the filing fee. Plaintiff shall comply with this Order on or before May 1, 2020 and is cautioned that failure to do so will lead to the dismissal of his complaint without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b), and judgment will enter.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

The Clerk of Court shall mail a copy of this Order and the AO 239 *in forma pauperis* application form to Plaintiff at his last known address.

SO ORDERED.

/s/ (JMA)
Joan M. Azrack
United States District Judge

Dated: April 13, 2020
Central Islip, New York